

**131.500 Demand for payment -- Levy upon and sale of property of taxpayer to satisfy demand -- Maintenance of property.**

- (1) (a) In addition to any other remedy provided by the laws of the Commonwealth, if any person has been assessed for a tax the collection of which is administered by the Department of Revenue as provided by the laws of the Commonwealth and if the person has not sought administrative or judicial review of the assessment as provided for in KRS 131.110, or if the person has sought but exhausted all administrative and judicial review so that the assessment is final, due, and owing, the commissioner of revenue or his delegate may cause a demand to be made on the person for the payment thereof.
- (b) If the tax remains unpaid for thirty (30) days after the demand, the commissioner or his delegate may levy upon and sell all property and rights to property found within the Commonwealth belonging to the person or on which there is a lien provided by KRS 131.515 or 134.420, except the property that is exempt from an execution on a judgment in favor of the Commonwealth as provided in KRS Chapter 427, for the payment of the amount of the tax, penalty, interest, fees, and cost of the levy.
- (2) As soon as practicable after seizure of property, notice in writing shall be given by the commissioner or his delegate to the owner of the property. The notice shall be given to the owner either in person or by certified mail to his or her last known address. The notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.
- (3) The commissioner or his or her designee shall as soon as practicable after the seizure of the property cause a notification of the sale of the seized property to be published in the newspaper with the largest circulation within the county where the seizure is made. The notice shall be published once each week for three (3) successive weeks. In addition, the notice shall be posted at the courthouse in the county where the seizure is made for fifteen (15) days next preceding sale. The notice shall specify the property to be sold, and the time, place, manner, and condition of the sale thereof.
- (4) If any property liable to levy is not divisible, so as to enable the commissioner or the commissioner's designee by sale of a part thereof to raise the whole amount of the tax, penalty, fees, interest, and cost of the levy, the whole of the property shall be sold.
- (5) The time of sale shall not be less than thirty (30) nor more than ninety (90) days from the time the seizure is made. The place of sale shall be within the county in which the property is seized, except by special order of the commissioner.
- (6) The sale shall be conducted by public auction, or by public sale under sealed bids. In the case of the seizure of several items of property, the commissioner or his or her delegate may offer the items for sale separately, in groups, or in the aggregate and accept whichever method produces the highest aggregate amount.
- (7) (a) The commissioner or his or her delegate shall determine whether payment in

full shall be required at the time of acceptance of a bid, or whether a part of the payment may be deferred for such period, not to exceed one (1) month, as he or she may determine to be appropriate.

- (b) If payment in full is required at the time of acceptance of a bid and is not then and there paid, the commissioner or his or her delegate shall forthwith proceed to again sell the property as provided in subsection (6) of this section.
  - (c) If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid, within the prescribed period, suit may be instituted in the Franklin Circuit Court or the Circuit Court of the county where the sale was conducted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of twelve percent (12%) per annum from the date of the sale; or, in the discretion of the commissioner, the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section.
  - (d) If readvertisement and sale occur, any new purchaser shall receive the property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by the defaulting purchaser shall be forfeited.
- (8) If the commissioner or his or her delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense, he or she shall appraise the value of the property and, if the owner of the property can be readily found, the commissioner or his or her delegate shall give him or her notice of the determination of the appraised value of the property. The property shall be returned to the owner if, within the time specified in the notice, the owner pays to the commissioner or his or her delegate an amount equal to the appraised value, or gives bond in the form, with the sureties, and in the amount as the commissioner or his or her delegate determines to be appropriate in the circumstances. If the owner does not pay the amount or furnish the bond in accordance with this subsection, the commissioner or his or her delegate shall as soon as practicable make public sale of the property without regard to the advertisement requirements or the time limitations contained in subsections (3) and (5) of this section.
- (9) No proceedings under this section shall be commenced more than ten (10) years after the assessment becomes final.
- (10) The term "levy" as used in this section shall include the power of distraint and seizure by any means. Except as otherwise provided in KRS 131.510(2)(a), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the commissioner or his or her delegate may levy upon property or rights to property, he or she may seize and sell the property or rights whether real, personal, tangible or intangible.
- (11) Notwithstanding the provisions of KRS Chapters 45, 45A, and 56, the department may take all necessary steps to provide for the protection, maintenance, or transportation of all property seized by the department pursuant to the provisions of

this section, including but not limited to negotiating directly for the procurement of contractual services, including professionals, supplies, materials, equipment, or the leasing of real and personal property. Every effort shall be made to effect a competitively established price for purchases made pursuant to this section. The department shall report any procurements of contractual services, supplies, materials, equipment, or the leasing of real and personal property, to the secretary of the Finance and Administration Cabinet within sixty (60) days of the transaction. Nothing in this section shall preclude the department from complying with the provisions of KRS Chapters 45 and 56 relating to the requirements to report the purchase or lease of real property or equipment to the Capital Projects and Bond Oversight Committee.

**Effective:** January 1, 2010

**History:** Amended 2009 Ky. Acts ch. 10, sec. 32, effective January 1, 2010. -- Amended 2005 Ky. Acts ch. 85, sec. 141, effective June 20, 2005. -- Amended 1996 Ky. Acts ch. 344, sec. 8, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 164, sec. 1, effective July 13, 1990; and ch. 423, sec. 6, effective July 13, 1990. -- Amended 1982 Ky. Acts ch. 238, sec. 1, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 262, sec. 1, effective July 15, 1980.